

THE SOUTH DAKOTA STATE BOARD OF MEDICAL AND
OSTEOPATHIC EXAMINERS

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IN THE MATTER OF THE APPLICATION	*	
BY GARY HELMBRECHT, M.D., TO THE	*	STIPULATION ON
SOUTH DAKOTA STATE BOARD OF	*	AGREED DISPOSITION
MEDICAL AND OSTEOPATHIC EXAMINERS	*	

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This Stipulation, made and entered into by the South Dakota State Board of Medical and Osteopathic Examiners, hereinafter referred to as Board, by and through its duly appointed Investigative Committee consisting of Milton Mutch, M.D., and L. Paul Jensen, and the licensee Gary Helmbrecht, M.D., WITNESSETH:

WHEREAS, the Board has received information with respect to Dr. Helmbrecht's abuse of controlled substances; and

WHEREAS, as a result of the receipt of this information on March 8, 2004, the Board accepted the voluntary suspensions of Dr. Helmbrecht's license to practice medicine in the State of South Dakota; and

WHEREAS, the parties hereto agree to resolve any issues relative to the voluntary suspension of Dr. Helmbrecht's license to practice medicine without the necessity of the Board filing a formal complaint or notice of hearing pursuant to SDCL 1-26-9 in this matter; and

WHEREAS, the parties agree the Board is empowered pursuant to SDCL 1-26-20 to informally settle contested cases of this nature; and

WHEREAS, Dr. Helmbrecht has a pending application for the issuance of a license to practice medicine in the State of South Dakota and has met with the Investigating Committee with respect to the issuance of a license to practice medicine; and

WHEREAS, the parties have reached agreement as to the terms and conditions whereby the Board would agree to grant to Dr. Helmbrecht's pending application for a license to practice medicine in the State of South Dakota;

NOW, THEREFORE, based upon the foregoing, the parties stipulate and agree as follows:

1. That Gary Helmbrecht, M.D., waives any and all rights, administrative and judicial, that he may enjoy pursuant to SDCL Chapter 1-26 or SDCL Chapter 36-4, including the necessity of the Board filing of a formal complaint to initiate license sanction proceedings in this matter.
2. That the terms and conditions contained in this Stipulation shall remain in effect for a period of five (5) years from the date of ratification of this Stipulation by the Board or until such time as Dr. Helmbrecht no longer maintains a current license to practice medicine in the State of South Dakota.
3. That in consideration of the approval of his application for a license to practice medicine in this State and during such period as this Stipulation shall remain in effect, Gary Helmbrecht, M.D. shall abide by and comply with all of the following terms and conditions:

- A. That Gary Helmbrecht, M.D., shall comply with all laws relative to the practice of medicine as set forth in SDCL Chapter 36-4 as well as any rules and regulations pertaining to the practice of medicine in the State of South Dakota.
- B. That during such period, Gary Helmbrecht, M.D., shall permit the Board or its authorized agents or representatives to have access to all records of any nature relating to medical services provided by him and shall agree to respond to inquiries and disclose such information as requested by the Board or its authorized agents.
- C. That upon reasonable notice given by the Board of the date, time and location, Gary H. Helmbrecht shall appear before the Board to answer inquiries and provide such information as may be requested with matters relative to the terms and conditions of this Stipulation.
- D. That Gary Helmbrecht, M.D., shall not possess, ingest or engage in the use of alcohol or use or possess any drug or controlled substance unless the same is prescribed by a physician licensed by a medical examining board having jurisdiction over Gary Helmbrecht's practice of medicine.

- E. That Gary Helmbrecht, M.D., agrees, on a monthly basis, to provide the Board with independent verification of regular attendance three (3) times per week at Alcoholics Anonymous (AA) and/or Narcotics Anonymous (NA) meetings in or near his current or future home community.
- F. That Gary Helmbrecht, M.D., shall promptly submit to blood and/or urinalysis tests at times requested by the Board, or its authorized agents or representatives, with such testing to strictly comply with the protocol imposed by the Virginia Health Practitioners' Intervention Program.
- G. That receipt by the Board of a positive drug or alcohol test result, shall permit the Board to summarily suspend license #4042 issued to Gary Helmbrecht, M.D., without necessity of a hearing.
- H. Gary Helmbrecht, M.D., shall comply with all the terms and conditions of the agreement and/or contract entered into by Gary Helmbrecht and the Virginia Health Practitioners' Intervention Program and the South Dakota Health Professionals Assistance Program.
- I. That Gary Helmbrecht, M.D., shall obtain counseling from a physician or counselor approved by the Board, and Gary Helmbrecht, M.D. shall provide each such

physician or counselor with a copy of this Stipulation and shall provide authorization to such physician or counselor to provide an initial report as well as quarterly reports to the Board. Gary Helmbrecht, M.D., is solely responsible for insuring the Board's timely receipt of the required reports. In the event such physician or counselor shall discontinue counseling services for Gary Helmbrecht, M.D., they shall notify the Board of such facts and the reasons therefore. The parties further agree that should the above referred to physician or counselor indicate that Gary Helmbrecht, M.D., is a threat to patient safety, the Board may summarily suspend license #4042 issued to Gary Helmbrecht, M.D., without necessity of a hearing.

- J. In the event that any conduct of Gary Helmbrecht, M.D., during the period this Stipulation is in effect, violates the provisions set forth in this Stipulation, the Board may summarily suspend license #4042 issued to Gary Helmbrecht, M.D., without necessity of a hearing.
- K. It is further Stipulated and Agreed that in the event Gary Helmbrecht, M.D., is convicted of a criminal offense related to the possession or use of alcohol or controlled substance while this Stipulation is in

effect, the Board shall have the right to revoke medical license #4042 without further hearing thereon and without additional notice to Gary Helmbrecht, M.D., other than service on him of a copy of its Orders of Revocation thereon.

- L. Gary Helmbrecht, M.D. shall notify the Board of all changes in employment within fifteen (15) days of his change of employment.
3. That this Stipulation shall become a matter of public record and the obligations of the Board with respect thereto shall be governed by the laws of South Dakota and the Board policy then in effect.
4. That the parties hereto recognize that Board representatives who have engaged in discussions relative to an agreed disposition of this matter may only make recommendations to the South Dakota State Board of Medical and Osteopathic Examiners, which recommendation may in no way be considered as binding upon the full membership of the Board who would ultimately decide the pending contested case, and this Stipulation is subject to acceptance by the full membership of the Board.
5. It is further agreed that in the event this Stipulation is not accepted by the membership of the South Dakota State Board of Medical and Osteopathic Examiners, such agreed

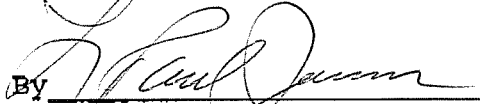
disposition shall not in any manner be considered as binding upon Gary Helmbrecht, M.D., and in such case, the above entitled matter would proceed to a contested case hearing with no inferences or presumptions being drawn by reason of this Stipulation entered into and that such Stipulation shall in no way prejudice or be considered by the Board upon a contested case hearing or decision thereon.

6. That Gary Helmbrecht, M.D., understands that he has the right and has been afforded the opportunity to have this Stipulation reviewed by his attorneys, and that in the event he chooses to execute this document without taking the opportunity to avail himself of this right such failure shall be deemed to be a waiver of such right.
7. That Gary Helmbrecht, M.D., specifically waives any claim that any disclosures made to the full membership of the Board for the purposes of the consideration of this Stipulation have prejudiced his rights to a fair and impartial hearing in the event this Stipulation is not accepted by the full Board and further proceedings before the Board are initiated.
8. Gary Helmbrecht, M.D., further agrees that there have been no inducements, threats or promises made in order to obtain his entry into this Stipulation.


9. That the parties further agree that all statements contained herein are based upon the facts known to the Board on the date of execution of this Stipulation.

Dated this 8 day of June, 2004.

THE SOUTH DAKOTA STATE BOARD
OF MEDICAL AND OSTEOPATHIC
EXAMINERS

By 
L. Paul Jensen
Executive Secretary


Gary Helmbrecht, M.D.


Brett Lovrien,
Attorney for Gary Helmbrecht, M.D.